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09/539,834	03/31/2000	Todd Siegel	084016.00009	9608

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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 07/25/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/539,834

Applicant(s)

SIEGEL ET AL.

Examiner

Sameh H. Tawfik

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

Art Unit: 3721

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(claim 7, lines 4-6) "...effecting relative motion in at least two directions between the funnel and plurality of product package template cavities..." is vague, indefinite, and/or confusingly worded because it is not clear what applicants are referring to, what is that moving in two directions between the funnel and plurality of product package template cavities? and/or the funnel itself or the template?

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudsen (4,490,963) in view of Siegel et al. (4,834,264).

Knudsen discloses a method of filling solid pharmaceutical product packaging comprising the steps of automatically (Fig. 1; via switches board) dispensing one or more solid

Art Unit: 3721

pharmaceutical products (Fig. 1; via loading station 16) from a plurality of different drug sources (Figs. 4-6 and 12) into each cavity of a plurality of product package cavities (Figs. 1 and 12; via forming station 14); automatically and transferring the solid pharmaceuticals located in the product package cavities into a product package member (Fig. 1; via covering strip 4). Knudsen failed to disclose that dispensing one or more products from a plurality of different drug sources into a common funnel and “effecting relative motion in at least two directions between the funnel and plurality of product package template cavities” nor the product package template cavities corresponding to cavities of a product package member. However, Siegel disclose funnel over individual ones of the cavities in order to place one or more products into plurality of template cavities (Fig. 2); and dispensing one or more products from a plurality of different drug sources into a common funnel and “effecting relative motion in at least two directions between the funnel and plurality of product package template cavities” (Fig. 2) and the product package template cavities (Fig. 2; via 46) corresponding to cavities of a product package member.

In case that the applicants will not be convinced that Knudsen’s reference doesn’t disclose the step of automatically dispensing the pharmaceutical products. The examiner believes it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Knudsen’s a method of filling solid pharmaceutical product packaging by having the step of automatically dispensing the pharmaceutical products, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Knudsen's method of filling solid pharmaceutical product packaging by having the step of dispensing one or more products from a plurality of different drug sources into a common funnel and effecting relative motion between the funnel and plurality of product package template cavities and the product package template cavities corresponding to cavities of a product package member, as suggested by Siegel, in order to dispense objects of widely differing size and shape (column 2, lines 57-62).

Regarding claim 8: Knudsen discloses that during the step of dispensing the solid pharmaceutical products (via lading station 16) simultaneously sealing another pharmaceutical product package (via sealing station 18) that has been previously filled with a variety of solid pharmaceuticals (Fig. 1).

Regarding claims 9 and 10: Knudsen discloses a step of printing information on a pharmaceutical product package (via printing station 12).

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 7 and 8 above, and further in view of Bouthiette (6,023,916).

Knudsen failed to disclose a step of dispensing first and second pharmaceuticals into a single template cavity. However, Bouthiette discloses the step of dispensing first and second pharmaceuticals into a single template cavity (Fig. 8) to be administered to a patient whenever the patient has to take the pills together at the same time (column 1, lines 18-22).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Knudsen's method of filling solid pharmaceutical product packaging by having the step of dispensing first and second pharmaceuticals into a single

template cavity, as suggested by Bouthiette, in order to be administered to a patient whenever the patient has to take the bills together at the same time.

***Response to Arguments***

Applicant's arguments filed 6/6/2003 have been fully considered but they are not persuasive.

Applicants argue in page 4 of the arguments that claim 7 have been modified in order to further specify that the funnel is moved relative to the product package template cavities in two dimensions or directions of motion such that the funnel is selectively located about desired ones of the product package template cavities. The examiner believes that applicants arguing about something is not clearly claimed in claim 7. The claim is not clearly describing the movement of the funnel in two directions as been arguing about.

Applicants further argue in pages 4 and 5 that Siegel reference fails to provide any teaching or suggestion whatsoever regarding the relative motion of a funnel that dispenses solid pharmaceuticals. The examiner believes as set forth that the claim is confuse and is not clear about the motion of the funnel. The examiner also believes that Knudsen's apparatus clearly dispensing solid pharmaceuticals.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3721

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rada, Rinaldi can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST

July 17, 2003



**EUGENE KIM**  
**PRIMARY EXAMINER**